DELAWARE AUTOMOBILE AND TRUCK DEALERS' ASSOCIATION, INC.

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April 16, 2013

Mr. Ali Mirzakhalili, P.E.
Director, Division of Air Quality
DNREC
655 S. Bay Rd
Suite 5N
Dover, DE 19901

Dear Ali:

Thank you for inviting the Delaware Automobile & Truck Dealers ("DATDA") to participate in the working group related to the contemplated revisions to Title 7, Section 1140 Delaware National Low Emission Vehicle Program of the Delaware Administrative Code. The proposed revisions would enact into Delaware law the California rules governing tailpipe emissions and greenhouse gas emissions, as well adopting California's law requiring that, by the year 2025, 15% of the vehicles available for sale at new vehicle dealerships in Delaware must be so-called zero emissions vehicles ("ZEV"), i.e., electric or fuel cell vehicles. We appreciated the opportunity to share our views during the workgroup meeting held on March 28th.

We believe that a new development since our meeting, and a number of significant points raised during the meeting, bring into question the benefit of adopting the changes to Regulation 1140 proposed by DNREC. **For the reasons set forth below, we therefore request that DNREC halt its rulemaking process to amend Section 1140 and repeal this section beginning with the 2017 model year. We would appreciate receiving your response to our request by May 1, 2013.**

A. EPA Action on GHG & Tailpipe Emissions

As we discussed at the meeting on March 28th, the U.S. Environmental Protection Agency has been contemplating adopting new, more stringent Tier 3 standards for reducing motor vehicle tailpipe emissions and greenhouse gas ("GHG") emissions that are equivalent to the California rules that DNREC proposes adopting. Everyone at the meeting agreed that, if the EPA in fact proposes the new Tier 3 standards, then Delaware would gain no practical or perceived benefit by adopting the California rules because the new federal rules would apply. The day after our meeting, EPA proposed these new Tier 3 standards stating, "These proposed vehicle standards are intended to harmonize with California's Low Emission Vehicle program, thus creating a federal vehicle emissions program that would allow automakers to sell the same vehicles in all 50 states." EPA expects them to be enacted into law later this year.

In light of this changed circumstance, Delaware does not need to go through the process of attempting to adopt California's rules because Delaware's tailpipe and GHG emissions rules will be controlled by the new, more stringent EPA Tier 3 rules.

B. California ZEV Mandate

California's ZEV mandate, which if adopted by Delaware would require ZEVs to comprise 15% of all vehicles offered for sale by dealers in Delaware, is the subject of the second part of DNREC's proposed new rule that we discussed at the workgroup meeting. **DATDA strongly opposes adopting the California ZEV mandate for the following reasons.**

1. **Negative Financial Impact**: The proposed ZEV rules would place on Delaware new motor vehicle dealers the financial burden for stocking, paying floorplan interest on, and attempting to sell ZEVs, regardless of consumer demand. The mandate does not require consumers to buy the ZEVs; the mandate requires dealers to stock 15% ZEVs. Based on current sales figures, a conservative estimate would require Delaware dealers to stock in inventory and try to sell about 9000 ZEVs in 2025. By way of comparison, Delaware dealers sold about 260 ZEVs in 2012. When consumers do not buy ZEVs, Delaware dealers will suffer the direct economic harm of selling them for a loss or paying the extra financing cost to maintain them in inventory. The negative financial impact on Delaware dealers and their over 3500 employees could easily rise into the tens of millions of dollars per year (e.g., if dealers are forced to sell 6000 ZEV vehicles for a loss of $2000 per vehicle, the loss to dealers would total $12,000,000 alone, without calculating the substantial carrying costs of the vehicles that dealers would incur).

2. **Lost Sales to Non-ZEV States:** Because of the ZEV mandate, Delaware dealers will lose sales and suffer financial harm because we would not have available for sale in proper quantities the non-ZEV vehicles customers want due to the mandate to order for sale 15% ZEV vehicles. Due to an inability to generate sustained power for hauling and carrying heavy loads (lithium ion batteries themselves are extremely heavy), ZEV technology cannot be used for pickup trucks, for medium to large SUVs or for minivans. Customers will travel to other states to purchase the vehicles they want if not available at Delaware dealerships. This will harm Delaware dealerships and their Delaware employees with no benefit to our state.

3. **Unclear Environmental Benefit**: ZEV cars are not zero pollution cars since they are responsible for the air pollution associated with the fuels used to generate electricity. Furthermore, the lithium ion batteries used in the vast majority of ZEVs can cause contamination and other types of pollution due to issues involving their safe disposal.

4. **Technology & Safety Issues:** As Delaware dealers know from experience and as has been chronicled in the national media, lithium ion batteries suffer from serious

performance issues. A lithium ion battery loses a significant portion of its charge in colder weather, such as we in Delaware experience. Furthermore, there are safety issues related to the batteries, including reported instances of fires. Understandably, Customers will not wish to purchase vehicles that will not provide them with the transportation and reliability that they need in order to make sure they can get their kids to school, get themselves to work and use their cars for many other everyday purposes. We would respectfully suggest that until ZEVs can provide a level of safety, convenience and reliability such that government emergency services and law enforcement personnel would feel confident using these vehicles on a daily basis, it does not seem fair for the elected officials of Delaware to attempt to require its citizens to purchase these vehicles or to place on Delaware's auto dealers the economic risk of selling them.

5. **Higher Cost**: ZEVs currently cost substantially more than non-ZEVs ($13,000 to $33,000 to the California Air Resources Board ("CARB")). These costs may come down over time, but CARB predicts that in 2025 ZEVs will still cost $9,000 to $12,000 more than an equivalent gasoline vehicle. Until ZEVs can perform with the same reliability, the same convenience for travel and refueling times and be purchased at the same price as a non-ZEV, the economic risk of attempting to sell these vehicles should not be placed on the back of Delaware dealers.

Although the impact on air quality in Delaware of ZEV vehicles would be marginal, after taking into account the effect of the new EPA Tier 3standards and the air pollution associated with generating the electricity required to power ZEVs, Delaware could choose to incentive its citizens to purchase ZEVs through tax credits or other means if Delaware believes there is compelling case to promote ZEVs.

Thank you for your time and attention to this matter and we look forward to receiving your response.

Best regards.

Sincerely,

Isaac Willis
DATDA President

Jim Ursomarso
DATDA Vice President

Cc: The Honorable Jack Markell
The Honorable Colin O'Mara
David Small